

The Illinois Department of Revenue does not administer locally imposed food and beverage taxes. (This is a GIL.)

December 18, 2007

Dear Xxxxx:

This letter is in response to your letter dated October 5, 2007, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

The CITY would like to implement a Home Rule Food and Beverage Tax. The concern is the impact of the most recent two Public Acts on the implementation of this tax. The intention of this request is to get a legal letter of understanding for this issue.

Public Act 88-507 exempts the sale of soft drinks from the Food and Beverage Tax. Is this a correct interpretation or are there certain circumstances this is applicable?

Public Act 95-0544 states the Food and Beverage tax is to be used to support parking facilities. Is this an option for the tax? If it is, does the City need to pass an ordinance to designate an area to be supported by this tax similar to a TIF District?

The concern is that if under Home Rule Authority the CITY implements a Home Rule Food and Beverage tax can it be utilized in the general operating fund of the CITY? If not what are the restrictions.

I appreciate your assistance with this matter. If you should have any questions please contact me.

DEPARTMENT'S RESPONSE:

Questions concerning the imposition and collection of home rule municipal taxes that are not administered by the Illinois Department of Revenue are outside of the jurisdiction of the Department. The Department does not provide statutory interpretation on such matters. Municipally imposed food and beverage taxes are not administered by the Illinois Department of Revenue. As a result, we are unable to provide any guidance as to those taxes. You may consult with your States Attorney, who may in turn seek an opinion from the Attorney General's Office on the matter. In addition, you may consult with municipal or business organizations who may have information concerning this issue.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel